

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

**JOSE CASTRO, JR.**  
Claimant

VS.

**KOCH ENGINEERING COMPANY**  
Respondent  
Self-Insured

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Docket No. 196,573

**ORDER**

Claimant appeals from a Preliminary Order dated May 2, 1995 by which Administrative Law Judge John D. Clark denied claimant's application for temporary total disability benefits.

**ISSUES**

Claimant contends the Administrative Law Judge erred in denying benefits because claimant has restrictions imposed by the treating physician and has been terminated from his employment with respondent.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the record and considering the arguments of the parties the Appeals Board finds that claimant's contentions do not constitute allegations that the Administrative Law Judge exceeded his jurisdiction and the Appeals Board, therefore, does not have jurisdiction to entertain this appeal.

The appealed Order by the Administrative Law Judge does not state the basis for the decision denying benefits. Nevertheless, a review of the record and consideration of the arguments of the parties leaves no doubt that the basis for the decision was a determination that claimant is not temporarily totally disabled. The Appeals Board has jurisdiction to consider appeals from preliminary orders only where it is alleged that the administrative law judge exceeded his jurisdiction. K.S.A. 44-551. Respondent is currently providing medical treatment and there appears no dispute, for preliminary hearing purposes, that there was an accidental injury arising out of and in the course of employment. The sole issue relates to whether the restrictions imposed by the treating physician rendered claimant temporarily totally disabled. As the record also reflects, claimant is currently receiving unemployment compensation benefits.

The issue raised by claimant does not constitute an allegation that the Administrative Law Judge exceeded his jurisdiction. See K.S.A. 44-534a and K.S.A 44-551. Accordingly, the appeal does not raise any issue which invokes the jurisdiction of the Appeals Board.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge John D. Clark, dated May 2, 1995, remains in effect as originally entered.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of August, 1995.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

c:     Bruce L. Stewart, Wichita, Kansas  
       Douglas C. Hobbs, Wichita, Kansas  
       John D. Clark, Administrative Law Judge  
       David A. Shufelt, Acting Director